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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/388,829	09/01/1999	KENNETH J. KNIGHT	MSI-321US	4486
22801	7590	11/30/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			BURGESS, BARBARA N	
			ART UNIT	PAPER NUMBER
			2157	

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/388,829	KNIGHT ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Barbara N. Burgess	2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 September 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-33 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

This is in response to the applicant's Amendments filed September 6, 2005. Claims 1-33 are presented for further examination. Claims 34-35 have been cancelled as requested by Applicant.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 10-12, 14-19, 22, 29, 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd (US Patent No. 6,405,219) in view of Strong et al. (hereinafter "Strong", 5,689,688).

As per claims 1,14-15, 29, 33, Shepherd discloses a method, system, and computer readable memories of synchronization activation of scheduled update data among a plurality of web servers is coupled to a common data server, the method comprising:

- Prior to the scheduled activation time, receiving the scheduled update data into the staging caches in the plurality of web servers (column 2, lines 9-12; column 10, lines 4-6, 10-12);
- Activating the scheduled update data by causing the scheduled update data from the staging caches within each of the plurality of web server to be accessible from

an active cache within each of the plurality of web servers (column 11, lines 12-15, column 14, lines 24-30).

Shepherd does not explicitly disclose:

- Recieving a scheduled activation time from the data server.

However, the use of receiving a scheduled activation time from the data server is well known to one skilled in the relevant art at the time the invention was made as evidenced by the teachings of Strong (column 2, lines 7-15, column 9, lines 32-34, 51-53).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate Strong's retrieving a scheduled activation time from the data server in Shepherd's synchronization method in order to specify a time in which the plurality of servers will be synchronized.

As per claims 2 and 16-17, Shepherd does not explicitly disclose:

- Comparing a time associated with a clock in each web server to a time associated with a clock in the data server;
- Adjusting the scheduled activation time on each web server by the time difference between the clock in the web server and the clock in the data server.

However, the use and advantages for comparing the clock in the web servers with that in the data server and adjusting the scheduled activation time is well known to one skilled in the relevant art at the time the invention was made as evidenced by the teachings of Strong (column 9, lines 60-67).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate these steps in Shepherd's method in order for the slave nodes to synchronize its local time with that of the reference time.

As per claims 3 and 18, Sheperd does not explicitly disclose:

- Each web server contains a clock, and wherein the clocks in the plurality of web servers are not synchronize with one another (column 5, lines 27-31, column 9, lines 11-12).

However, the use and advantages for each web server containing a clock is well known to one skilled in the relevant art at the time the invention was made as evidenced by the teachings of Strong (column 3, lines 11-13, column 5, lines 36-39, column 9, lines 10-12).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate each server containing a clock in which the web servers are not synchronized with one another in Shepherd's method in order to reduce network traffic by a slave node being an eavesdropper and synchronizing itself.

As per claims 4, 19, and 31, Shepherd discloses copying data from the staging cache to an active cache (column 14, lines 24-30). Therefore, Sheperd implicitly discloses causing the scheduled update data to be accessible from the active cache comprises swapping an active data cache pointer with a staged data cache pointer.

As per claims 5 and 32, Sheperd discloses:

- No communications are required between the individual web servers to synchronize their data (column 3, lines 7-16).

As per claims 10 and 11, Shepherd discloses causing the scheduled update data to be accessible from the active cache of data server to an active cache of the web server when the web server is added and initialized (column 2, lines 9-12; column 10, lines 4-6, 10-1).

As per claims 12 and 22, Shepherd discloses a plurality of web servers comprising a web farm (column 6, lines 38-50).

3. Claims 6 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd (US Patent No. 6,405,219) in view of Strong et al. (hereinafter "Strong", 5,689,688) and in further view of Hagersten et al. (hereinafter "Hagersten", 5,958,019).

As per claims 6 and 30, Shepherd, in view of Strong, does not explicitly disclose retrieving scheduled update data into staging caches of web servers performed asynchronously. However, the use and advantage for performing this operation asynchronously is well known to one skilled in the relevant art at the time the invention was made as evidenced by the teachings of Hagersten (column 2, lines 47-58, column 3, lines 19-23, column 28, lines 6-14, column 30, line 27).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement asynchronously updating data into the staging cache in Shepherd's method of synchronization in order alleviate the stalling and degradation of a system.

4. Claims 7 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd (US Patent No. 6,405,219) in view of Strong et al. (hereinafter "Strong", 5,689,688) in further view of Yamazaki (hereinafter "Yamazaki", 5,923,855).

As per claims 7 and 20, Shepherd, in view of Strong, does not explicitly disclose after the scheduled activation time, updating data caches in the data server. However, the use and advantage updating data caches in the data server after the scheduled activation time is well known to one skilled in the relevant art at the time the invention was made as evidenced by the teachings of Yamazaki (column 1, lines 19-24, column 5, lines 48-57).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement updating data caches in the data server after scheduled activation in Shepherd's method of synchronization in order to maintain cache consistency.

5. Claims 8-9 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd (US Patent No. 6,405,219) in view of Strong et al. (hereinafter "Strong", 5,689,688) and in further view of Sakon.

As per claims 8-9 and 21, Shepherd, in view of Strong, does not explicitly disclose calculating the next scheduled activation time. However, the use and advantage for scheduling the next activation time is well known to one skilled in the relevant art at the time the invention was made as evidenced by the teachings of Sakon (column 8, lines 25-40, 54-58).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement calculating the next scheduled activation time in Shepherd's method of synchronization in order for each web server to be aware of the next scheduled time of synchronization.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd (US Patent No. 6,405,219) in view of Strong et al. (hereinafter "Strong", 5,689,688) and in further view of Brendel et al. (hereinafter "Brendel", 5,774,660).

As per claim 13, Shepherd, in view of Strong, does not explicitly disclose the plurality of web servers being load balanced using a domain name service (DNS) round-robin technique. However, the use and advantage for scheduling the next activation

time is well known to one skilled in the relevant art at the time the invention was made as evidenced by the teachings of Brendel (column 3, lines 1-6).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement a DNS round-robin technique in Shepherd's method of synchronization in order to manage server congestion and distribute loads across multiple servers.

7. Claims 23- 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd (US Patent No. 6,405,219) in view of Strong et al. (hereinafter "Strong", 5,689,688) in further view of Yamazaki (hereinafter "Yamazaki", 5,923,855) in further view of Sakon.

Shepherd discloses a method of synchronization among a plurality of web servers in a network wherein each of the plurality of web servers is coupled to a common data server, the method comprising:

- Retrieving updated data into the staging caches in the plurality of web servers (column 2, lines 9-12; column 10, lines 4-6, 10-12);
- Copying data from the staging cache of each web server to an active cache of each web server (column 11, lines 12-15, column 14, lines 24-30).

Shepherd does not explicitly disclose:

- Retrieving a scheduled activation time from the data server.

However, the use and advantages for retrieving data into the staging cache and copying data from the staging cache to an active cache is well known to one skilled in the relevant art at the time the invention was made as evidenced by the teachings of Strong (column 2, lines 7-15, column 9, lines 32-34, 51-53).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate retrieving a scheduled activation time from the data server in Shepherd's synchronization method in order to specify a time in which the plurality of servers will be synchronized.

Shepherd, in view of Strong, does not explicitly disclose after the scheduled activation time, updating data caches in the data server. However, the use and advantage updating data caches in the data server after the scheduled activation time is well known to one skilled in the relevant art at the time the invention was made as evidenced by the teachings of Yamazaki (column 1, lines 19-24, column 5, lines 48-57).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement updating data caches in the data server after scheduled activation in Shepherd's method of synchronization in order to maintain cache consistency.

Shepherd, in view of Strong and Yamazaki, does not explicitly disclose calculating the next scheduled activation time. However, the use and advantage for scheduling the next activation time is well known to one skilled in the relevant art at the time the invention was made as evidenced by the teachings of Sakon (column 8, lines 25-40, 54-58).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement calculating the next scheduled activation time in Saether's method of synchronization in order for each web server to be aware of the next scheduled time of synchronization.

time, a staging cache, or an active cache.

***Allowable Subject Matter***

8. Claims 2, 3, 16, 17, 18, 24, 25 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

**The Office notes the following arguments:**

- (a) Shepherd does not concern update data, let alone activating such data at a scheduled activation time.
- (b) Shepherd does not disclose using an active cache in addition to the staging cache.

**In response to:**

- (a) Shepherd discloses virtual track data located in the cache memory since the virtual track may have already been staged into the cache memory (column 10, lines 5-14).

(b) Shepherd discloses in order to perform a write operation, the virtual track is staged from the logical layer into the cache memory. The virtual track is scheduled to be rewritten from the cache memory where modification has taken place into logical layer (column 11, lines 13-23).

### ***Conclusion***

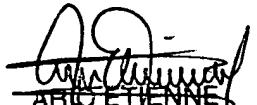
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara N. Burgess whose telephone number is (571) 272-3996. The examiner can normally be reached on M-F (8:00am-4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Ettinene can be reached on (571) 272-4001. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Barbara N Burgess  
Examiner  
Art Unit 2157

November 28, 2005



ARIO ETINENE  
PRIMARY EXAMINER